

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

TROY E. TILLERSON,

Plaintiff,

vs.

THE MEGA LIFE AND HEALTH
INSURANCE CORPORATION, a
corporation; TRANSAMERICA LIFE
INSURANCE COMPANY F/K/A PFL
LIFE INSURANCE COMPANY, a
corporation; NATIONAL ASSOCIATION
FOR THE SELF EMPLOYED A/K/A
NASE, a corporation,

Defendants.

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CASE NO. 3:05-cv-985-MEF

**DEFENDANTS' MOTION FOR LEAVE TO AMEND ANSWER
TO FIRST AMENDED COMPLAINT**

COME NOW, Defendants, by and through their undersigned counsel, and file this motion for leave to file the attached amended answer to the Plaintiff's first amended complaint and in support hereof state as follows:

1. On May 12, 2006, Plaintiff served a first amended complaint.
2. On May 22, 2006, Defendants served their answer to the first amended complaint.
3. On October 11, 2006, Plaintiff's stepmother, Sue Ann Tinkey was deposed.
4. Testimony presented by Ms. Tinkey during her deposition revealed that the health insurance plan at issue in Plaintiff's first amended complaint qualifies as an employee benefit plan governed by the Employee Retirement Income Security Act, 29 U.S.C. §§ 1001, *et seq.* ("ERISA").

5. As a result, Defendants request this Court allow them to amend their answer to the first amended complaint to assert additional defenses based on ERISA preemption.

WHEREFORE, premises considered, Defendants respectfully request the Court grant leave and allow the filing of the attached amended answer to the Plaintiff's first amended complaint.

s/Pamela A. Moore

JAMES W. LAMPKIN II (LAMPJ7474)

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CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2006, the foregoing document was electronically filed with the Clerk of this Court using the CM/ECF system which will send notification of such filing to the following:

Steven W. Couch, Esq.

Hollis & Wright, P.C.

505 North 20th Street, Suite 1500

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s/Pamela A. Moore

COUNSEL